IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5941 OF 2005

Ramchandra Yashwant Khandale ...Applicant
vs.
State of Maharashtra ...Respondent

Mr.Sachin S. Thombare i/b Mr.P.R.Ghorpade for the Applicant
Ms M.M.Deshmukh,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : OCTOBER 10,2005

P.C.:

1. Heard Advocate for the Applicant and the learned A.P.P. for State. The offence alleged against the Applicant is under Sections 363, 366, 376 of the Indian Penal Code.

2. The learned Advocate for the Applicant submitted that the offence has taken place from 20th June 2005 to 2nd July 2005. He pointed out that the prosecutrix even according to her own case was taken to various places. He pointed out from the statement of the prosecutrix that the prosecutrix was even taken to Delhi by the Applicant. He submitted that on 20th June 2005, the prosecutrix had completed the age of 16 years as according to the school record her date of birth is 6th November 1988. He submitted that the statement of the prosecutrix and other witnesses clearly suggest consent on the part of the prosecutrix.

3. The learned A.P.P pointed out the statements of prosecutrix and her friend to show that the Applicant was trying to induce the Applicant to develope the relationship even before the prosecutrix completed age of 16 years. The

learned A.P.P. submitted that considering the fact that the Applicant is a teacher of the prosecutrix, no case is made out for enlarging the Applicant on bail.

4. I have considered the submissions. The statement of the prosecutrix shows that on her own she went away with the Applicant. Thereafter, the Applicant took her to various places for a period of about 12 days. The prosecutrix had obviously many opportunities to protest but on her own she has not protested and she moved from place to place with the Applicant. I have also perused the medical certificate of the prosecutrix which shows that she is habituated to penetrative vaginal intercourse. It is not in dispute that the Applicant himself surrendered before the Police station after he learnt that the uncle of the prosecutrix had filed missing complaint. There are no criminal antecedents of the Applicant.

5. In this view of the matter, a case is made out for enlarging the Applicant on bail especially when the charge sheet is already filed and the Applicant is in custody for about last three months. However, stringent conditions will have to be imposed to ensure that the Applicant does not tamper with the prosecution evidence.

6. Hence I pass the following order :

i) The Applicant shall be enlarged on bail in connection with C.R.No.224 of 2005 registered with Wanwadi Police Station,Pune

subject to furnishing a personal bond of Rs.15,000/- (Rupees fifteen thousand only) with one or two local sureties in the like amount.

ii) The bail is granted subject to condition that till conclusion of the trial the Applicant will not enter the area falling within the jurisdiction of Wanwadi Police station, Pune.

iii) The order granting bail will be given effect only after the Applicant furnishes his detailed address of the place where he proposes to reside after he is enlarged on bail.

iv) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

v) The Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in above terms.

viii) Parties to act upon an authenticated copy of this order.

JUDGE